

**Application No.:** 10/790,987  
**Filing Date:** March 2, 2004

### **REMARKS**

By way of summary, prior to entry of this paper, Claims 8-10, 15-19, 21, 23-28, and 36-39 are pending. By this paper, Claims 8-10, 21, 23-28, and 36-39 are cancelled. New claims 40-45 are added. Therefore, Claims 15-19 and 40-45 are presently pending and presented for consideration.

#### **Discussion of Claim Restrictions**

The Office Action states that newly submitted and amended Claims 21, 23-28 and 36-39 are directed to an invention that is independent or distinct from the invention originally claimed and therefore subject to restriction. The Office Action further indicates that, as an action on the merits for the originally presented invention has been received, this invention has been constructively elected by original presentation for prosecution on the merits.

The Applicant has canceled Claims 21, 23-28, and 36-39 in the present application without prejudice and reserves the right to pursue the subject matter of these canceled claims in one or more continuing applications.

#### **New Claims**

New Claims 40-45 are added. Support for these claims are found at least in Page 28, Line 17-Page 31, Line 13 of the Specification as originally filed. Therefore, no new subject matter is added.

#### **Allowable Subject Matter**

The Office Action states that Claims 15-19 are allowed. New claims 40-45 further depend from allowed Claim 15 and, therefore, define additional allowable subject matter.

#### **Related Patents of Assignee**

The Applicants wish to draw the Examiner's attention to the following issued patents of the present application's assignee.

<b>Serial Number</b>	<b>Title</b>	<b>Filed</b>
10/456,149 (Now U.S. Patent No. 6,958,061; Atty. Docket: DINE.034A)	MICROSPHERES WITH SACRIFICIAL COATINGS FOR VASO-OCCLUSIVE SYSTEMS	06/05/03

The Applicants note that cited references, office actions, responses, and notices of allowance currently exist or will exist for the above-referenced matters. The Applicants also

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understands that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to, for example, specification and drawing publications, pending claims and complete file histories, including, for example, cited art, office actions, responses, and notices of allowance. However, if the Examiner cannot readily access these file histories, the Applicants would be pleased to provide any portion of any of the file histories at any time upon specific Examiner request.

### **SUMMARY**

The Applicants have endeavored to address all of the Examiner's concerns as expressed in the Office Action. Accordingly, amendments to the claims, the reasons therefore, and arguments in support of patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are made in order to improve the clarity of claim language, to correct grammatical mistakes or ambiguities, and to otherwise improve the clarity of the claims to particularly and distinctly point out the invention to those of skill in the art. The Applicants may not have presented in all cases, arguments concerning whether the applied references can be properly combined or modified in view of the deficiencies noted above, and the Applicants reserve the right to later contest whether the cited references can be properly combined or modified. Finally, the Applicants submit that the claim limitations above represent only illustrative distinctions. Hence, there may be other patentable features that distinguish the claimed invention from the prior art.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and, particularly, that all claims be allowed. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully invited to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 4, 2009

By: \_\_\_\_\_

Josué A. Villalta  
Registration No. 54,511  
Attorney of Record  
Customer No. 20995  
(310) 551-3450

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